

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

TIMMY ANTONIO DAWSON  
(TDCJ No. 681033),

§ § § § § § § § § § § §

V.

No. 3:17-cv-1651-N

LORIE DAVIS, Director  
Texas Department of Criminal Justice,  
Correctional Institutions Division,

## Respondent.

## ORDER

The United States Magistrate Judge made findings, conclusions, and a recommendation in this case. No objections were filed. The District Court reviewed the proposed findings, conclusions, and recommendation for plain error. Finding none, the Court ACCEPTS the Findings, Conclusions, and Recommendation of the United States Magistrate Judge.

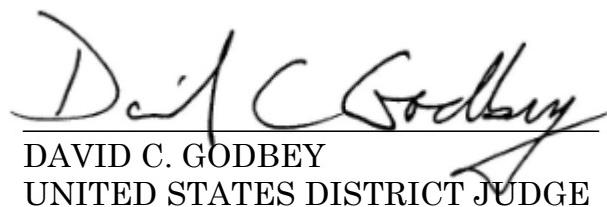
Because the Court lacks jurisdiction over Petitioner's unauthorized successive application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, it is ORDERED, ADJUDGED, and DECREED that the application is TRANSFERRED to the United States Court of Appeals for the Fifth Circuit for appropriate action.

Because the Court is transferring the successive habeas application to the Fifth Circuit for appropriate action, the Court need not address whether Petitioner is entitled to a certificate of appealability (“COA”). *See United States v. Fulton*, 780 F.3d

683, 688 (5th Cir. 2015) (“[A] transfer order under 28 U.S.C. § 1631 is not a final order within the meaning of [28 U.S.C.] § 2253(c)(1)(B), and the appeal of such an order does not require a COA.”); *Guel-Rivas v. Stephens*, 599 F. App’x 175, 175 (5th Cir. 2015) (per curiam) (applying *Fulton*’s holding to transfer of a successive Section 2254 application).

But in the event that Petitioner does file a notice of appeal, the Court notes that he must pay the filing fee or file a motion for leave proceed *in forma pauperis* on appeal.

SO ORDERED this 3<sup>rd</sup> day of August, 2017.

  
DAVID C. GODBEY  
UNITED STATES DISTRICT JUDGE